The Meeting was called to order at 7:30 p.m. by President Kuser. The Salute to the Flag was recited, followed by the reading of the Open Public Meetings Act Statement by Deputy Clerk Kathy Costello. Mrs. Costello requested that all cell phones be silenced and noted that this is a non-smoking facility.

ROLL CALL: FITZPATRICK, GABEL, GOLINSKI, SCOLLANS, SMITH, LYDEN, KUSER
ALSO IN ATTENDANCE: MAYOR ANDES, ADMINISTRATOR WARD, ASSISTANT TOWNSHIP ATTORNEY DE BONA AND PLANNER DENZLER

OPEN PUBLIC PORTION:
Joe Sceurman, 76 Riverside Drive, stated that he learned today that the Council passed a resolution last week authorizing the refunding of construction permit fees. He said that he received an e-mail from the Administrator today advising him that his permit fees would not be refunded. Mr. Sceurman further stated that he did not expect to have all of the fees refunded but did expect to have that portion which covered the reconstruction of the original house refunded. He said that they had to obtain a variance to build on the exact same foundation which cost them $760 and the construction fees came to $2,900.

Mr. Ward replied that there were three properties recommended for refunds: one received a full refund and two were partials - 50% and 33%, based on what the Construction Official estimated was related to the actual damage from the hurricane. He said that many people took the opportunity to expand while they were building, much as the Sceurmans did. Mr. Ward noted that a portion of the Sceurmans fees were waived in the amount of $767. He said that, in addition to that, in an effort to benefit the Sceurmans as best as possible, the permit for the reconstruction was based upon a volume criteria which is typically used for calculating new construction. Mr. Ward explained that, if the permits were done on a renovation criteria, it would have been $20 per thousand of the cost of the improvement. He noted that, using the renovation criteria, the permit would have been about $6,000 instead of $2900. The Administrator added that, with regard to the COAH fee, the Sceurmans were charged as if it were an addition so that they would not be paying on the entire reconstruction. He said that would have been the case almost any other time, based on the work that they are doing. Administrator Ward advised that based on those two things alone, approximately $5,000 in costs were saved, in addition to the $767 in fees waived that were granted to the Sceurmans. He said that the new fees of $2,900 seem appropriate based on the work that is being done, the number of visits for inspections that will be required and the generous calculation of the fees.

Mr. Sceurman again related the events since the hurricane and the reasons that he feels he is entitled to a waiver of fees. Mrs. Sceurman disagreed with Mr. Ward’s comment that multiple visits would be required for the work being done; she said that,
even if they put the house back the way it was, the same number of inspections would need to be made because they lost everything.

Councilwoman Smith commented that she finds it admirable that the Sceurmans chose to stay in Denville and rebuild. She noted that the Administrator said that the fees were calculated on a new construction. Mr. Sceurman interjected that it is not new construction. Mr. Ward again explained that, had the fees been calculated as an addition, they would have been much higher. Mrs. Smith asked that the Administrator take another look at the fees that have been levied.

President Kuser asked Mr. Sceurman how much he has paid, out of pocket, for permits that have not been waived.

Councilwoman Lyden asked what the $767 that was waived covered.

Mr. Ward replied that it was for a demolition and foundation permit.

Mrs. Lyden said that she agrees with Mrs. Smith that Administration should take another look.

Councilman Scollans commented that this is an unusual situation due to the hurricane. He said that it is obvious that the Administrator followed the proper protocol with regard to permits. Mr. Scollans stated that he strongly recommends that there be an exception in this case due to the hardship that this family had to face.

Councilman Fitzpatrick said that he would still like clarification about the basement issue. Mrs. Sceurman replied that she does not see a need to re-live it. She said that looking forward, everyone has learned from it and everyone is now aware of the 50% destruction criteria.

Councilman Golinski said he does not understand the reason for the variance.

Planner Denzler explained that the ordinance requires Board of Adjustment approval to relocate an existing house back into the flood plain.

Mayor Andes stated that he did advise the Sceurmans to pay the fees up front to keep the project moving and also advised them to write a letter requesting the waiving of fees.

He said that the Construction Official and the Administrator went over the application and recommended the formula to be used to waive the fees. Mr. Andes noted that his intent was to enable people to restore their homes to pre-hurricane condition, not to waive fees for them to enlarge their home. The Mayor advised that he had sent Mr. Sceurman an e-mail this evening asking if there is a specific permit that Mr. Sceurman would like to have waived and his reason for requesting the waiver. He said that he would bring it back and look at it again.

Mr. Sceurman stated that he feels he is being punished for improving his home. He said that what is above ground now, was below ground before and it is the exact same foundation. Mrs. Smith asked if the total square footage of liveable space is the same as it was before. Mr. Sceurman said that it is close except that now there is a room above the garage. Mrs. Smith suggested that Mr. Sceurman send an e-mail to the Mayor and Administrator showing the comparison of square footage of liveable space before and after in order for them to consider whether a portion of the fees should be
refunded. Mayor Andes recommended that, within the next week, he, the Construction Official and Administrator Ward will do a review and come back with another recommendation at next week’s meeting. Dorinda Sceurman, 76 Riverside Dr., commented that she is concerned about the development of the Home for the Blind property, which is under contract for sale, because of the wetlands conditions there. She said that she understands that the property is intended to be used as a school and asked if the Township has considered that. President Kuser replied that the Township has not been contacted so it is not known, for sure, if it is definitely under contract. He said that what he does know is that people have to adhere to the zoning ordinances. Mayor Andes added that he has heard from the Board of Education office that there is a contract in attorney review and the Board has been notified that they need to vacate the offices by the end of May. He added that, whatever the outcome, the new owners will have to adhere to the zoning rules that are in place.

CLOSE PUBLIC PORTION.

DISCUSSION OF PROPOSED ORDINANCES:

President Kuser advised that the sub-committee that met on the ordinances is not ready to make a recommendation on the Wellhead Protection ordinance, so that ordinance will not be discussed. He said that it is a very complicated ordinance and a lot more information is needed.

MAXIMUM COVERAGE IN RESIDENTIAL DISTRICTS

President Kuser advised that the sub-committee was comprised of the following individuals:
Councilwoman Smith
Councilman Golinski
President Kuser
Attorney DeBona
Mayor Andes
Administrator Ward
Planner Denzler
Environmental Commission Chairman Atkinson

Planner Denzler explained that this ordinance came as a recommendation of the Board of Adjustment to curtail over-development. He said that the ordinance is a composite of other ordinances in the County and the State and addresses two coverage aspects:
building and total lot impervious, which is basically the building plus all other impervious surfaces such as driveways, walkways and patios. Mr. Denzler advised that the ordinance, based on the lot size, establishes the maximum building coverage for each of the various lot sizes based on their actual size. He noted that the total lot coverage is doubled when it is permitted for the building coverage.

Mr. Denzler stated that the numbers were derived from a sampling of various lots throughout the Township by zone and lot size and are a reasonable representation.

Councilman Scollans advised that he was on the Board of Adjustment when those recommendations were made and is in favor of the ordinance.

Councilman Golinski noted that he was a member of the sub-committee and feels it is important to protect our drinking water and reduce the impact that covering our land has on flooding, so he is in favor of it. He inquired as to whether something needs to be added to the ordinance to cover pavers that are advertised to be pervious and then become impervious after a period of time.

Mr. Denzler replied that language would have to be added to insure that it remains pervious.

It was determined that a permit would not be needed to install a patio, unless it included a wall, for which a permit would be required.

There was a discussion concerning floor area ratio.

Councilwoman Lyden asked if a permit would be needed to convert a macadam driveway to pavers. Mr. Denzler replied that he did not believe so. He said that he would check with the Engineer.

Councilwoman Smith commented that conceptually it makes sense. She said that what we are trying to do is to avoid taking a lot, covering it over with cement and creating flooding issues. She said that one of her concerns is that not everyone with a small lot wants to build a two-story house. Mrs. Smith noted that she asked Mr. Denzler to look into what kind of house she would wind up with if she wanted to build a ranch on a small lot. Mrs. Smith noted that her other concern is mandating square footage. She does not think the Township should restrict square footage on a lot that consists of five acres.

Mrs. Smith stated that we want to do everything that we can to reduce flooding.

Councilman Fitzpatrick asked if an elevated deck is considered to be impervious. Mr. Denzler replied that decks are considered impervious. Mr. Fitzpatrick spoke about improvements to properties in his neighborhood and is wondering if they are in violation.

Mr. Fitzpatrick commented that he needs to get more information before he can really support the ordinance.

Councilman Gabel said that from what he sees here there are some common sense limits to the coverage and we do need to have some guidelines. Mr. Gabel asked if someone were to surround an in-ground pool with pavers, would it be covered by the pool ordinance or the maximum coverage ordinance.

Mr. Denzler replied that the patio area would fall under impervious lot coverage, the water area of the pool is exempted.

Mayor Andes suggested that Mr. Denzler present to the Council, Mayor and
Administrator a drawing of each of the five different scenarios that we are discussing. Councilman Scollans agreed with Mayor Andes and added that he thinks there needs to be some change in the wording to make it easier to understand.

President Kuser said that it is a great ordinance and we should move forward with it. He added that the Wellhead Protection ordinance is a good one as well but needs to be tightened up. Mr. Kuser advised that this ordinance has been through the Planning Board and they had no recommendations. Mr. Denzler advised that the Board liked the concept and it was done through an ANJEC grant in 2010.

PROTECTION OF TREES

President Kuser commented that this ordinance went “nowhere fast” in the sub-committee. He asked Mr. Denzler for a little background on this ordinance. Mr. Denzler advised that this ordinance addresses the removal and replacement of trees 12" or more in diameter throughout the Township. He said that, right now, properties that are less than 1 acre are exempted from tree removal and this ordinance addresses all sizes of properties in the Township. Mr. Denzler explained that it establishes guidelines on planning of the property and addresses both existing and vacant properties in terms of the number of trees that can be taken down and the criteria for replacement of those trees. He said that the ordinance also gives recommendations regarding the kind of replacement trees, which are basically those that are native to the area.

Mr. Denzler summed up the ordinance by saying that it outlines the process and addresses the replacement issues.

Councilman Scollans commented that in principle, he agrees with the ordinance but from what he has read so far, it is a little too imposing on the residents who want to make some minor changes to their property.

Councilman Golinski stated that he agrees that it is important to protect our trees, air and water but we have to be concerned about how enforceable and realistic the ordinance is. He recommended that the permit process be available by mail and the size of the tree be increased from 12".

President Kuser asked for a copy of Randolph’s tree ordinance. Mr. Denzler replied that he will get that to President Kuser.

Councilwoman Lyden commented that she is in favor of the ordinance but also feels that it involves a lot of paper work.

Councilwoman Smith said that the intent primarily is to prevent developers from coming in and clear cutting wooded lands and replacing them with a couple of pine trees. She said that she does not think that this ordinance has gotten there. Mrs. Smith commented that the ordinance, as it is now, is onerous for the single lot owner. She cautioned about legislating something that can't be enforced. Mrs. Smith noted that she feels this is still a work in progress and, if the intent is to prevent clear cutting by
developers she is all for it. She added that she is not comfortable with moving forward with it at this time.

Councilman Fitzpatrick commented that there are a lot of little details that can be difficult. He said that he agrees that some kind of tree replacement program needs to be in effect. Mr. Fitzpatrick noted that he feels we need to get something on the books, even if we cannot enforce every aspect of it.

Councilman Gabel said that he believes we need to give the residents some guidance on tree management. He noted that it will need to be articulated and communicated to the public very effectively when we do pass an ordinance. Mr. Gabel stated that he is in favor of the policy of replacing a tree of like size when taking a tree down and feels that should be included in the ordinance.

President Kuser advised that he is not a fan of the ordinance at all. He commented on the high cost of tree removal and stated that he is not in favor of charging people a fee to replace the tree. Mr. Kuser said that we should let people make improvements to their property.

Mr. Golinski interjected that this ordinance makes no reference to charging people to replace a tree.

Mr. Kuser replied that it was discussed by another committee and rejected as not feasible since there is no one available to plant trees. He said that there are problems with this ordinance and maybe something should be done with total surface instead. Mr. Denzler said that some town ordinances have simple requirements where, as an example, they state that a minimum of 20% of the existing tree line shall remain.

Mr. Kuser asked what Mr. Denzler feels is the best for Denville.

Mr. Denzler replied that we need to look at who is preparing the ordinance and, in this instance, it is the Environmental Commission. He said that he can see a mix to address Township issues for property owners but we also want to save some of the larger tracts for which, somewhere down the line, developers may come in with a development plan.

Mayor Andes asked how the ordinance that we already have is working.

Mr. Denzler replied that it is hit or miss. He said that the issues generally go straight to Engineering. Mr. Denzler noted that he sees tree matters when they go before the Planning Board and he reviews the site plans. He said that the Engineer goes out to look at larger trees when there is an issue.

Mayor Andes commented that he has a problem with not letting people do what they want to do on their own property. He said that less is more when it comes to Government regulation but there is an environmental issue here and we need to find a fine line between the two. Mr. Kuser suggested that the Mayor is thinking of restrictions on additions and new development. Mayor Andes agreed with that and added that perhaps it can be tied in to the process of getting a construction permit. Mr. Denzler replied that is a possibility because, even if they are conforming to the ordinance, the Construction Official has to sign off. The Mayor commented that he thinks we should work off what we already have on the books.

Councilman Gabel noted that we hold the homeowner responsible for a tree removal
permit but what about the tree services. He asked if those companies are aware that a
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permit is needed. Mr. Ward replied that professionals such as plumbers and
electricians are licensed but tree services are not.
Mr. Kuser noted that the current ordinance calls for a permit to remove a tree that is 3"
in diameter measured one foot above the ground. He asked Administrator Ward to
supply the Council with a copy of the current tree ordinance and this proposed
ordinance will go back to the sub-committee. Mr. Kuser said that they will look at it and
try to come up with something a little more feasible.
Attorney DeBona commented that it would be a good idea to take a look at Chapter 13,
the existing ordinance, which exempts properties of one acre or less. Mrs. DeBona
advised the Council that there is also a tree harvesting ordinance which is Chapter 13A.

Councilwoman Smith commented that it is o.k. to discuss an ordinance in a sub-
committee and ultimately decide it is not needed.
Attorney DeBona explained that the exemption in the current ordinance is only for
developed property, less than 1 acre, with an occupied dwelling on it.

President Kuser stated that Maximum Coverage in Residential Districts will be
discussed again at the next workshop meeting; Wellhead Protection will also be moved
to the next work shop. Mr. Kuser advised that the Council will look at Chapter 13 and
the Tree Protection ordinance will go back to sub-committee for review at their next
meeting. He added that the meeting will be held before the next workshop on June 12
at 6:30 p.m.

MOTION TO ADJOURN: MOVED BY MEMBER SMITH, SECONDED BY MEMBER
GABEL
AYES: UNANIMOUS

Meeting adjourned at 8:45 p.m.

Respectfully submitted by:

Kathleen A. Costello
Deputy Township Clerk